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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/869,625	01/18/2002	Francis Blary	15675P362	5783

7590 06/26/2003  
Blakely Sokoloff Taylor & Zafman  
7th Floor  
12400 Wilshire Boulevard  
Los Angeles, CA 90025-1026

EXAMINER

KEASEL, ERIC S

ART UNIT	PAPER NUMBER
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3754

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DATE MAILED: 06/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/869,625

Applicant(s)

BLARY ET AL.

Examiner

Eric Keasel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5-13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The references cited in the Search Report have been considered, but will not be listed on any patent resulting from this application because they were not provided on a separate list in compliance with 37 CFR 1.98(a)(1). In order to have the references printed on such resulting patent, a separate listing, preferably on a PTO-1449 form, must be filed within the set period for reply to this Office action.

### ***Specification***

2. The use of the trademark KERLANE has been noted in this application. Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner, which might adversely affect their validity as trademarks (see MPEP 608.01(v)).

### ***Claim Objections***

3. Claims 5-13 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim shall not serve as a basis for any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, claims 5-13 have not been further treated on the merits.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Fontaine (US Patent Number 3,845,932).

Fontaine discloses a safety valve (see Figs. 1 and 2) for a chamber comprising a shutter (32) mounted to slide relative to a housing frame (18) to open and close an orifice (24) connected to the chamber. Fontaine discloses the same controlled drive means as applicant (i.e. a pneumatically-actuated piston (16) acting against springs (54 and 56) to move the shutter to open (see Fig. 1) and close (see Fig. 2) the orifice). Fontaine also discloses the same release means as applicant (i.e. fluid pressure from the orifice automatically opens the shutter against the force in spring (38) when the fluid pressure reaches a predetermined threshold). The release means and the drive means are connected to the shutter in a configuration such that they are parallel to each other.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Melzer (US Patent Number 3,384,101) in view of Fontaine.

Melzer discloses a safety valve for a chamber comprising a shutter (56) mounted to slide relative to a housing frame (32,34,50) to open and close an orifice (52) connected to the chamber. Melzer discloses the valve to have a sealing gasket (54) fixed to the frame that comes in contact with the shutter. The gasket has a diameter greater than the largest diameter of the orifice. Melzer also discloses the same release means as applicant (i.e. fluid pressure from the orifice automatically opens the shutter against the force in spring (64) when the fluid pressure reaches a predetermined threshold).

Melzer fails to disclose the controlled drive means to open and close the valve. Fontaine discloses the same controlled drive means as applicant (i.e. a pneumatically-actuated piston (16) acting against springs (54 and 56) to move the shutter to open (see Fig. 1) and close (see Fig. 2) the orifice) in a similar safety valve. Fontaine also discloses the same release means as applicant (i.e. fluid pressure from the orifice automatically opens the shutter against the force in spring

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(38) when the fluid pressure reaches a predetermined threshold). The release means and the drive means are connected to the shutter in a configuration such that they are parallel to each other. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used the controlled drive means and release means of Fontaine with the safety valve of Melzer in order to provide a valve that is opened and closed due to pneumatic pressure that can be supplied remotely to the valve, but also have relative motion between the piston and valve shutter so that excess fluid pressure in the line can lift the valve shutter off the valve seat when the valve is closed due to the pneumatic pressure as taught by Fontaine (see the whole document, especially column 1, lines 40-51).

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Melzer in view of Fontaine as applied to claims 1-3 above, and further in view of Regnier (US Patent Number 4,263,935).

The modified Melzer fails to disclose the stop cage to prevent movement of the shutter beyond the cage as the valve opens. Regnier discloses a stop cage (14) built into a similar frame in a similar safety valve (although only one is shown, three stops are disclosed, see column 3, line 25). The stop cage serves as an abutment for the valve shutter in the open position. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used the stop cage of Regnier with the safety valve of the modified Melzer in order to arrest the movement of the valve shutter in a top position as taught by Regnier (see column 3, lines 24-25).

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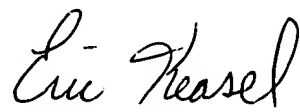
*Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Goddard, Frantz, Koci et al., de Almeida et al., Engelhardt et al., and Yie disclose similar disclose similar valves.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Keasel whose telephone number is (703) 308-6260. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene can be reached on (703) 308-2696. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.

 24 JUN 03  
Eric Keasel  
Examiner  
Art Unit 3754

ek  
June 24, 2003